

### **REMARKS/ARGUMENTS**

This is responsive to the Official Action of December 29, 2004. Claims 1, 4-10, and 16 remain active in the application.

The claims are amended in order to more particularly point out and distinctly claim that which applicants regard as their invention and to incorporate features of dependent claims into claim 1.

More specifically, claim 1 is amended to incorporate the "intraoral administration of original claim 3 and the "penem antibiotic" active ingredient of original claim 11. Claim 1 also includes information found on page 16, lines 2-16 of the description. Having explained basis for these amendments to claim 1 it will be apparent the amendments are fairly based on the disclosure of this application and do not include added subject matter.

Claim 2 is deleted as a consequence of these amendments. Other claim amendments and changes are discussed relative to a specific issue/objection stated in the Action.

According to counsel's records claims 1 - 16 were present in the application as filed; page 2 of the action mentions only claims 1-6 (presumably due to a typing error).

From the above amended claims the examiner will appreciate claim 1 is directed to pharmaceutical compositions for intraoral topical administration of a penem antibiotic as the active ingredient, features not described in the applied prior art.

The specific points raised by the examiner are now addressed in the order presented in the Action:

1. Claims 4-10 are amended to depend from claim 1 thus removing this objection.

2-4 The term "other additive" is deleted from the involved claims.

5. Claims 14 and 15 are deleted to reduce issues rendering the rejections under 35 U.S.C. 101 and 112 moot.

6-7. The rejection of original claims 1 -10 and 12-16 as being anticipated by Friedman et al does not include claim 11. As the subject matter of claim 11 is incorporated into claim 1 and all of the remaining claims depend directly or indirectly from claim 1, this rejection is overcome.

8. The rejection of original claims 1, 2, 11 and 16 as being anticipated by Ganguly et al does not include claim 3. As the subject matter of claim 3 is incorporated into claim 1 and all of the remaining claims depend directly or indirectly from claim 1, this rejection is overcome.

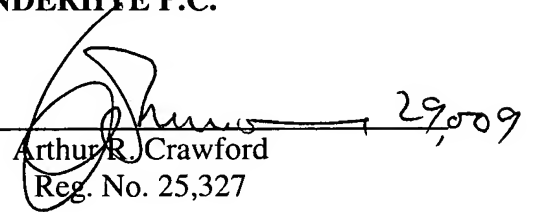
9. The rejection of original claims 1 -10 and 12-16 as being anticipated by Lerner et al does not include claim 11. As the subject matter of claim 11 is incorporated into claim 1 and all of the remaining claims depend directly or indirectly from claim 1, this rejection is overcome.

For the above reasons it will be apparent the amended claims are in proper formal order and compliant with 35 USC 112, second paragraph and are directed to novel subject matter they are in condition for allowance. Reconsideration and favorable action is solicited. Should the examiner require further information please contact the undersigned.

Respectfully submitted,

**NIXON & VANDERHYTE P.C.**

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